

SENATE BILL No. 445

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-45-2-1.

Synopsis: Intimidation. Enhances intimidation to a Class D felony if the threat: (1) is communicated to a prosecuting attorney or an employee of a prosecuting attorney; (2) includes a threat that causes another person to part with any property; or (3) is communicated to a parent or sibling of a witness in a pending criminal proceeding. Enhances intimidation to a Class C felony if the threat is a threat to commit a forcible felony against certain individuals. Provides affirmative defenses.

Effective: July 1, 2009.

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January 14, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 445

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-45-2-1, AS AMENDED BY P.L.3-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 1. (a) A person who communicates a threat to
4 another person, with the intent:
5 (1) that the other person engage in conduct against the other
6 person's will;
7 (2) that the other person be placed in fear of retaliation for a prior
8 lawful act; or
9 (3) of causing:
10 (A) a dwelling, a building, or another structure; or
11 (B) a vehicle;
12 to be evacuated;
13 commits intimidation, a Class A misdemeanor.
14 (b) However, the offense is a:
15 (1) Class D felony if:
16 (A) the threat is to commit a forcible felony;
17 (B) the person to whom the threat is communicated:

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- (i) is a law enforcement officer;
- (ii) is a judge or bailiff of any court;
- (iii) is a witness (or the spouse, ~~or~~ child, **parent, or sibling** of a witness) in any pending criminal proceeding against the person making the threat;
- (iv) is an employee of a school corporation;
- (v) is a community policing volunteer;
- (vi) is an employee of a court;
- (vii) is an employee of a probation department; ~~or~~
- (viii) is an employee of a community corrections program;
- or**
- (ix) is a prosecuting attorney or an employee of a prosecuting attorney;**

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; ~~or~~

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; ~~and~~ **or**

(E) the threat causes another person to part with any property; and

(2) Class C felony if:

(A) while committing it, the person draws or uses a deadly weapon; **or**

(B) a threat to commit a forcible felony is communicated to a person described in subdivision (1)(B).

(c) "Threat" means an expression, by words or action, of an intention to:

- (1) unlawfully injure the person threatened or another person, or damage property;
- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule;
- (7) falsely harm the credit or business reputation of the person threatened; or
- (8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

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1 (d) It is an affirmative defense to a prosecution under subsection
2 (b)(1)(E) that the defendant caused another person to part with
3 property as a result of a claim that there was a possibility that an
4 accusation, exposure, a lawsuit, or other invocation of official
5 action might occur, and the claim was lawfully asserted in an
6 attempt to obtain:

7 (1) restitution or indemnification for harm done under
8 circumstances to which the accusation, exposure, lawsuit, or
9 other official action relates; or

10 (2) compensation for property that was lawfully obtained or
11 for lawful purposes.

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